

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Trustees of the
LABORERS PENSION TRUST FUND - DETROIT & VICINITY;
MICHIGAN LABORERS' VACATION FUND; LABORERS
METROPOLITAN DETROIT HEALTH & WELFARE FUND;
and the MICHIGAN LABORERS TRAINING FUND,
trust funds established under,
and administered pursuant to, federal law,

Plaintiffs,

v.

Case No.

Hon.

W.P.M., Inc.,

Defendant.

/

COMPLAINT

PLAINTIFFS allege the following:

1. Plaintiffs are the Trustees for trust funds established under, and administered pursuant to, Section 302 of the Labor-Management Relations Act of 1947, as amended (“LMRA”), 29 U.S.C. §186, and the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. §§1001, *et seq.*, with principal offices located in this judicial district, with the exception of the Michigan Laborers’ Vacation Fund, whose principal office is located in Lansing, Michigan.

2. Defendant is a Michigan corporation, doing business in the building construction industry, an industry affecting commerce within the meaning of LMRA, with principal place of business located in this judicial district.

3. Jurisdiction of this Court is predicated on Section 301 of LMRA, 29 U.S.C. §185, and ERISA Sections 502(a)(3), 502(g)(2) and 515, 29 U.S.C. §§1132(a)(3), 1132(g)(2) and 1145, respectively, this being a suit for breach of the wage and fringe benefit provisions of collective bargaining agreements which the defendant, as employer, entered into with Local Unions 1076 and/or 1191 of the Laborers International Union of North America, AFL-CIO (hereinafter collectively the “Laborers Union”), labor organizations representing employees in a industry affecting commerce, with principal offices located in this judicial district.

4. Pursuant to the aforementioned collective bargaining agreements, copies of which are in its possession, the defendant was and is obligated to pay specific wage rates and make contributions for fringe benefits (e.g., medical coverage for eligible participant employees and their families, pensions, vacation and holiday pay, and annuity benefits) for, or with respect to work performed by, those of their employees who are or have been represented by the Laborers Union, which contributions should have been paid directly to plaintiffs.

5. Pursuant to ERISA Section 209(a), 29 U.S.C. §1059(a), and the collective bargaining agreements and trust agreements incorporated by reference

therein, defendant is obligated to maintain records sufficient to determine the benefits due or which may become due to its employees represented by the Laborers Union via contributions to plaintiffs, and to submit to periodic audits by plaintiffs of its books and records to confirm the accuracy and timeliness of such employee wages and contributions to plaintiffs.

6. The attached August 12, 2021 audit of the books and records of defendant covering the period of January, 2018 through December, 2020 determined that \$16,709.93 in unpaid fringe benefit contributions and contractual liquidated damages are owed to the plaintiffs.

7. Despite demand, defendant has failed to pay the indebtedness.

8. Defendant's indebtedness to plaintiffs for fringe benefit contributions (including contractual late payment charges or liquidated damages) for the period from January, 2021 through present is unknown and cannot be determined until defendant submits all necessary books and records for inspection and audit.

WHEREFORE, plaintiffs request that this Court enter judgment in their favor and against defendant as follows:

A. Adjudicating that defendant is contractually obligated to the plaintiffs pursuant to the collective bargaining agreements it entered into with the Laborers Union;

B. Ordering defendant to specifically perform according to the provisions of such collective bargaining agreements;

C. Entering Judgment against defendant in favor of the plaintiff in the amount of \$16,709.93, representing all amounts owed pursuant to audit for the period through December, 2020, plus liquidated damages, statutory interest, costs and attorneys' fees;

D. Upon request, ordering defendant to submit to the plaintiffs any and all books and records needed by them to determine the amount of its indebtedness from January, 2021 and

E. Upon submission of a motion to amend, awarding the plaintiffs the amount of defendant's indebtedness for the period from December, 2020, as ascertained by the audit, plus liquidated damages, statutory interest, costs and attorney fees.

Respectfully submitted,

WATKINS, PAWLICK, CALATI, & PRIFTI, PC

By: s/George H. Kruszewski
GEORGE H. KRUSZEWSKI (P-25857)
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February 7, 2022

STEFANSKY, HOLLOWAY & NICHOLS, INC.
PAYROLL AUDITING SERVICES

22260 HAGGERTY ROAD, SUITE 350
NORTHLVILLE, MICHIGAN 48167

(248) 305-9905
FAX: (248) 305-9901

August 12, 2021

WPM, Inc.
P.O. Box 486
Grand Blanc, MI 48439

Dear Sir/Madam:

This is to inform you of the results of the recent audit to confirm your contributions to the Laborers' Metropolitan Detroit Fringe Benefit Funds. Based on the records provided, our examination has revealed that the following amounts are still owing the aforementioned Funds.

	<u>Health Care</u>	<u>Vacation</u>	<u>Pension</u>	<u>Training</u>	<u>LECET</u>	<u>I.A.P.</u>	<u>Total</u>
1/18 - 12/20	\$3,463.93	\$2,197.02	\$5,469.78	\$245.48	\$54.55	\$54.55	\$11,485.31
Liquidated damages resulting from this audit						\$1,143.08	
Liquidated damages resulting from late payments						\$4,081.54	
						<u><u>\$16,709.93</u></u>	

A man-by-man breakdown covering the contributions due and owing the Funds is enclosed.

Liquidated damages resulting from this audit of \$1,143.08 will be waived if this audit is paid within fifteen (15) days of the billing date.

Should you have any questions, or disagree with the above findings, please contact the writer at (248) 305-9905 to arrange for a review. If we do not hear from you within seven (7) days from the date of this letter, the audit results as shown will become final and the matter will be referred to Mr. Michael J. Brown, Collection Administrator. Please make your check payable to the "Laborers' Fringe Benefit Funds", and mail to the above address c/o Mr. Michael J. Brown (248-305-9118).
DO NOT MAIL THIS PAYMENT TO THE BANK.

Very truly yours,



W.B. Kless
Fund Auditor

enclosure

xc: Mr. Michael J. Brown

Mr. B. Bass (Local #1076) w/o Enclosures
Mr. M. Aaron (Local #1191) w/o Enclosures

WPM, Inc.	PERIOD 1/18 - 12/20
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**DISCREPANCY INFORMATION
LABORERS**

PREPARED BY: WBK
DATE 08/12/21

**SUB-TOTALS FROM
PAGES 2-5**

FUND	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Amt. Due	Amt. Due	TOTAL	
HEALTH CARE	\$6.35	\$63.50	\$6.35	\$2,032.00			\$6.35	\$95.25	\$6.35	\$101.60	\$6.35	\$228.60			\$942.98	\$3,463.93
VACATION	\$2.65	\$26.50	\$2.65	\$848.00	\$2.75	\$86.63	\$2.75	\$108.63	\$2.75	\$90.75	\$2.75	\$236.50			\$800.01	\$2,197.02
PENSION	\$10.00	\$100.00	\$10.00	\$3,200.00			\$10.05	\$150.75	\$10.05	\$160.80	\$10.05	\$361.80			\$1,496.43	\$5,469.78
TRAINING	\$0.45	\$4.50	\$0.45	\$144.00			\$0.45	\$6.75	\$0.45	\$7.20	\$0.45	\$16.20			\$66.83	\$245.48
LECET	\$0.10	\$1.00	\$0.10	\$32.00			\$0.10	\$1.50	\$0.10	\$1.60	\$0.10	\$3.60			\$14.85	\$54.55
IND.ADV.	\$0.10	\$1.00	\$0.10	\$32.00			\$0.10	\$1.50	\$0.10	\$1.60	\$0.10	\$3.60			\$14.85	\$54.55
TOTAL		\$196.50		\$6,288.00		\$86.63		\$364.38		\$363.55		\$650.30			\$3,335.95	\$11,485.31

WPM, Inc.	PERIOD
1/18 - 12/20	

**DISCREPANCY INFORMATION
LABORERS**

PREPARED BY: WBK
DATE 08/12/21

EMPLOYEE	SOC SECURITY	HRS.WKD	HRS PD	HRS.WKD	HRS PD	HRS.WKD	HRS PD	HRS.WKD	HRS PD	HRS.WKD	HRS PD
		May 2020		July 2020		November 2020		YTD 2020			
Bertolini, Brad	XXX-XX-5225	33.50	33.50	3.00	3.00	40.00	40.00	75.50			
Richards, Jeffrey	XXX-XX-9194	32.00	32.00			40.00	40.00	64.00			
	XXX-XX-										
	XXX-XX-										
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TOTAL		65.50	65.50	3.00	3.00	80.00	80.00	139.50			

FUND	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	Rate	Amt. Due	TOTAL
HEALTH CARE	\$6.35	\$415.93	\$6.35	\$19.05	\$6.35	\$508.00							\$942.98
VACATION	\$2.75	\$180.13	\$2.75	\$8.25	\$2.85	\$228.00	\$2.75	\$383.63					\$800.01
PENSION	\$10.05	\$658.28	\$10.05	\$30.15	\$10.10	\$808.00							\$1,496.43
TRAINING	\$0.45	\$29.48	\$0.45	\$1.35	\$0.45	\$36.00							\$66.83
LECET	\$0.10	\$6.55	\$0.10	\$0.30	\$0.10	\$8.00							\$14.85
IND.ADV.	\$0.10	\$6.55	\$0.10	\$0.30	\$0.10	\$8.00							\$14.85
TOTAL		\$1,296.92		\$59.40		\$1,596.00		\$383.63					\$3,335.95

DETROIT LABORER'S

WPM, Inc.

Schedule of Liquidated Damages Resulting From Late Payments

Work Month	Deposit Date	Amount Owed
June 2017	09/25/17	\$27.47
June 2017	09/25/17	\$17.43
June 2017	09/25/17	\$326.41
July 2017	09/25/17	\$103.83
July 2017	09/25/17	\$6.44
November 2017	02/12/18	\$334.35
December 2017	02/16/18	\$80.25
December 2017	02/16/18	\$40.96
February 2018	06/06/18	\$129.77
February 2018	06/06/18	\$200.22
March 2018	08/03/18	\$122.99
March 2018	08/03/18	\$391.96
April 2018	08/03/18	\$23.31
April 2018	08/03/18	\$294.69
May 2018	09/12/18	\$55.46
May 2018	09/12/18	\$331.05
June 2018	09/12/18	\$76.52
June 2018	09/12/18	\$245.85
June 2018	09/12/18	\$43.51
July 2018	09/12/18	\$11.37
July 2018	09/12/18	\$54.89
August 2018	10/09/18	\$53.94
February 2019	04/03/19	\$12.09
July 2019	09/04/19	\$12.54
September 2019	12/18/19	\$30.51
October 2019	12/18/19	\$8.98
October 2019	12/18/19	\$17.08
May 2019	06/29/20	\$1,027.67
		\$4,081.54